

REMARKS

This is in response to the Office Action mailed on March 31, 2004, and the references cited therewith.

Claims 1, 10 and 24 are amended. Claim 43 is canceled. Claims 1-24 and 42 are now pending in this application.

Interview Summary

Applicants' Attorney Bradley A. Forrest and Examiner Wille discussed the application by telephone conference on Wednesday, June 23, 2004. No exhibits were presented, but the amendments to the claims were discussed in light of the Cole et al. and Tokuda et al. references. It was expressed that Tokuda et al. is directed at distinguishing between two frequencies, not detecting a spectrum passed by a bandpass filter that is broader than can be detected by a single detector. Thus, the problem solved by the presently claimed invention is not addressed by either the reference alone or combined. No agreement was reached.

§103 Rejection of the Claims

Claims 1-4, 9 and 43 were rejected under 35 USC § 103(a) as being unpatentable over Cole et al. (U.S. Patent No. 5,550,373) in view of Tokuda et al. (U.S. Patent No. 5,144,397). This rejection is respectfully traversed at least in part based on the amendment to the claims. The claims have been amended to indicate that the band of radiation passed by the bandpass filter is too wide to be detected by a single detector, such as the detector in Cole et al. The claims also indicate that the two detectors detect a larger spectrum than can be detected by a single detector. Tokuda et al. clearly is directed at distinguishing between two frequencies, not detecting a broader spectrum passed by a bandpass filter. Given the claim amendments, a prima facie case of obviousness is believed overcome, and the rejection should be withdrawn.

Claims 5-8 and 12 were rejected under 35 USC § 103(a) as being unpatentable over Cole et al. in view of Tokuda et al. and further in view of Hier et al. (U.S. Patent No. 6,407,439) and Koslowski et al. (U.S. Patent No. 6,483,116). This rejection is believed moot in view of the claim amendments.

Claims 10, 11, 13-17, 19, 23 and 24 were rejected under 35 USC § 103(a) as being unpatentable over Cole et al. in view of Tokuda et al. and Yokoi (U.S. Patent No. 6,459,484). This rejection is also believed moot in view of the claim amendments.

Claims 20-22 were rejected under 35 USC § 103(a) as being unpatentable over Cole et al. in view of Tokuda et al. and Yokoi and further in view Hier et al. and Koslowski et al. Since these claims depend from claims believed allowable, the rejection is believed moot.

Allowable Subject Matter

Claim 18 was indicated to be allowable if rewritten to overcome the rejection(s) under 35 USC § 112, second paragraph, set forth in the Office Action and to include all of the limitations of the base claim and any intervening claims.

Claim 42 was indicated to be allowable.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at (612) 373-6972 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

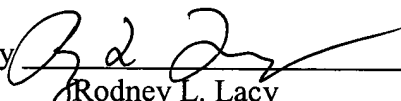
Respectfully submitted,

BARRETT E. COLE ET AL.

By their Representatives,

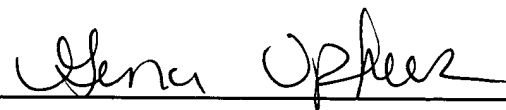
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Date June 30, 2004

By 
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 30 day of June, 2004.

Gina M. Uphus
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